

# **EXHIBIT 36**

**From:** [Jessica Phillips](#)  
**To:** [Edward ReBrook, ESO](#)  
**Cc:** [Jessica Phillips](#); [Michael Bloch](#); [Yotam Barkai](#)  
**Subject:** discovery deficiencies and violations  
**Date:** Wednesday, December 11, 2019 8:58:31 PM  
**Attachments:** [Kirkland Article.pdf](#)

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Mr. ReBrook:

I write to follow up about your clients' numerous discovery deficiencies and violations that came to light during the deposition of Burt Colucci. Plaintiffs plan to raise these issues with the Court in a motion for sanctions in which Plaintiffs will seek adverse inferences against Mr. Schoep and National Socialist Movement ("NSM") if your clients do not comply with the following by 5 pm on Monday, December 16, 2019:

1. Produce to the third-party discovery vendor Mr. Colucci's iPhones, including the iPhone from which he read into the record yesterday responsive text messages between himself and your client, Mr. Schoep.
2. Produce to the third-party discovery vendor, Mr. Colucci's computers, including the "Acer" computer he referenced under oath as well as the "new computer" that Mr. Colucci testified he "went out and got" because "people were saying that I was going to have to turn over my electronic devices."
3. Provide to Plaintiffs a new certification on behalf of NSM that lists all of the Social Media Accounts and Electronic Devices that may contain any potentially relevant Documents and Electronically Stored Information ("ESI") as those terms are defined in the Imaging Order. Mr. Colucci's testimony yesterday established that NSM's certification dated December 6, 2018, is woefully deficient.
4. Provide to the third-party vendor accurate credentials to each of the Social Media Accounts listed on the certification you provide Plaintiffs.
5. Identify the representative from NSM with whom you conferred to answer Plaintiffs' Second Set of Interrogatories that you served on Plaintiffs on November 29, 2019.
6. Provide to Plaintiffs a certification required by FRCP 33 swearing to the contents of the responses to Plaintiffs' Second Set of Interrogatories by the authorized representative from NSM.
7. Provide to Plaintiffs an updated set of responses to Plaintiffs [Corrected] First Set of Requests for Production of Documents, Plaintiffs' First Set of Interrogatories To All Defendants, and Plaintiffs' Second Set of Interrogatories from your client, NSM. As you know, under Federal Rule of Civil Procedure 26(e), your clients have an ongoing obligation to supplement their responses to Plaintiffs' discovery requests. Mr. Colucci confirmed multiple times under oath that NSM's responses to all three of Plaintiffs' discovery requests were inaccurate and/or incomplete. All three of the responses must be dated, signed, and certified by NSM's authorized representative.
8. Provide to the third-party discovery vendor Mr. Schoep's new phone with which he has been text messaging Mr. Colucci.
9. Produce to Plaintiffs the February 26, 2019, affidavit signed by Jeff Schoep on February 27, 2019, referred to and embedded in the attached article entitled, "Neo-Nazi Group Vows To Wrest Control Back From Black Activist" by Allegra Kirkland (available here:

<https://talkingpointsmemo.com/muckraker/fight-national-socialist-movement-james-hart-stern>)

10. Conduct immediately an investigation for responsive documents and communications from custodians associated with your client, NSM. As we have told you before, the Federal Rules of Civil Procedure impose a duty upon companies responding to discovery to conduct a reasonable investigation, make any reasonable inquiries of its employees, and fully respond to interrogatories and document requests. Mr. Colucci's deposition confirmed that no investigation has taken place.

Plaintiffs reserve all rights to seek all available forms of appropriate relief from the Court with respect to your clients' continued failure to meaningfully participate in discovery.

**Jessica E. Phillips**

Partner

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**BOIES SCHILLER FLEXNER LLP**

1401 New York Ave., NW

Washington, DC 20005

(t) +1 202 895 7592

(m) +1 312 493 7114

[jphillips@bsfllp.com](mailto:jphillips@bsfllp.com)

[www.bsfllp.com](http://www.bsfllp.com)

# ATTACHMENT 1



**TPM**

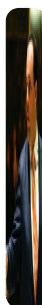
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# Neo-Nazi Group Vows To Wrest Control Back From Black Activist



**By Allegra  
Kirkland**

| March 6, 2019 4:36  
p.m.



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The head of one of the nation's longest-running neo-Nazi groups recently turned control of the organization over to an African-American ordained minister who wants to dismantle the group from the inside.

But the story gets much weirder than that.

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Each side is now accusing the other of fraud, with the former leadership of the National Socialist Movement (NSM) and California activist James Hart Stern each threatening legal action over control of the organization.

In a Wednesday interview with TPM, recently retired NSM “commander” Jeff Schoep said that he was persuaded under false pretenses to formally turn the reins over to Stern. Schoep also released a statement saying Stern has “no legal control or legal standing with” the NSM.

Stern told TPM he simply outsmarted the NSM, and that he’s filing a restraining order to halt Schoep from trying to interfere with a group he no longer controls.

The fight brewing over the last week escalated on Wednesday, when the NSM submitted a

new incorporation filing to the Michigan Department of Licensing and Regulatory Affairs replacing Stern with NSM member Acacia Dietz as the registered agent for the group. Schoep told TPM that Stern's leadership was based solely on these documents, and that they've now "been fixed."

A spokesman for the department confirmed to TPM that "anyone" can file these documents, and that the state has no process for confirming that changes in corporate leadership are legitimate.

But Stern told TPM that he has other proof that Schoep legally authorized him to assume control of the NSM, including recordings of phone conversations and a notarized affidavit.

Stern provided TPM with a copy of the affidavit allegedly signed by Schoep on Feb. 27, which reads, "I am assuring everyone that this is not an un-sincere move to inactivate this group. James Hart Stern has assured me he will not carry on the organization as it was do [sic] to his polar opposite views."

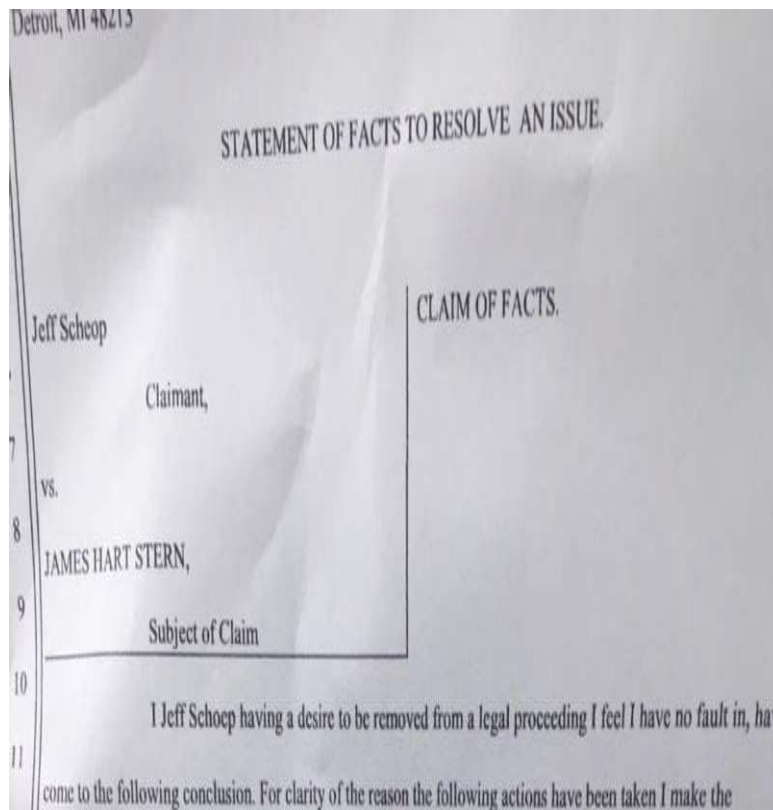


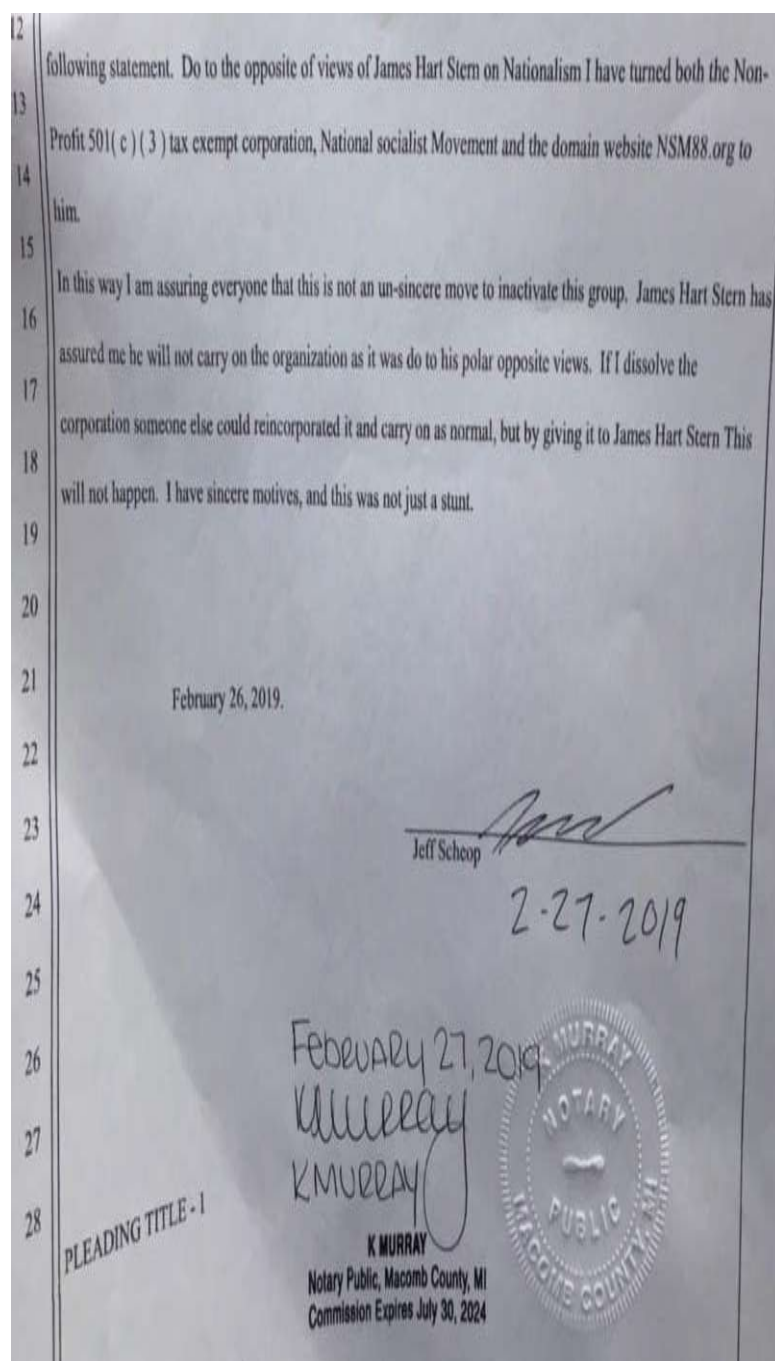
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“This was not just a stunt,” it continues.

The document (pictured below) contains multiple grammatical errors, additional words, and repeated misspellings of Schoep’s name.





Stern said he plans to file a restraining order against Schoep for violating that agreement in Riverside County, California, where Stern lives, on Wednesday.

This bizarre situation further complicates the legal battle that was already embroiling the

NSM and led to Stern being named president of the group in the first place.

The NSM and Schoep are among the many defendants named in a federal lawsuit brought on behalf of 11 Virginia residents injured during the violent white supremacist rally that erupted in Charlottesville in the summer of 2017.

Stern managed to convince Schoep that having him assume control of the NSM would relieve the group of legal liability in that suit, both men agree.

But exactly why and how this happened depends on who you ask. Stern and Schoep have almost opposite accounts of how this came to pass, as the men first told the Washington Post, though they agree they were acquaintances who were in regular contact over the past several years.

That contact was rooted in Stern's unlikely friendship with former Ku Klux Klan Grand Wizard Edgar Ray Killen. The pair were cellmates in a Mississippi prison while Stern was serving time for defrauding the Magnolia State's licensed cosmetologists and Killen was serving a 60-year sentence for his role in

orchestrating the infamous 1964 murders of three young civil rights workers, James Chaney, Andrew Goodman, and Michael Schwerner.

Killen ended up signing over power of attorney to Stern, and Stern used that authority in 2016 to dissolve the KKK chapter that Killen once ran.

Stern and Schoep each allege that the other made first contact around 2014 to discuss the unusual relationship that Stern had with Killen, and remained in touch in the following years. They even held a “race relations summit” in California attended by members of the NSM and black activists.

Both men say that they would exchange semi-regular phone calls, in which Schoep divulged to Stern that he felt ready to move on from the neo-Nazi organization he’d run since 1994.

In Stern’s telling, Schoep was exhausted by the Charlottesville suit and eager for the opportunity to leave the movement’s legal entanglements and interpersonal beefs behind. Stern said he offered to assume control of the NSM so that Schoep could do so.

According to Schoep, Stern assured him that the plaintiffs had promised to “dismiss myself and the NSM off the case” if he agreed to the leadership change and obtained proof that “it was a sincere thing.”

So he did. As the Southern Poverty Law Center first reported on Feb. 15, Schoep signed papers with the Michigan Department of Licensing naming Stern the leader of the organization. Schoep also fired the white nationalist-affiliated attorney, Jim Kolenich, who was representing himself and the NSM in that case.

But he didn’t anticipate what happened next. Stern promptly filed a motion asking the judge in the Charlottesville case to find the NSM culpable of conspiring to commit violence at the “Unite the Right” rally.

Judge Joel Hoppe said he could not take up the motion, noting that Stern was not an attorney and could not therefore claim to represent the NSM.

Per a transcript of a March 1 telephone hearing provided to TPM, the judge ordered Stern to obtain representation for the group and Schoep to obtain representation for himself. He also indicated that he had no interest in allowing

the NSM leadership struggle to delay the case, which is slated to go to trial in late 2019 or early 2020.

As part of pre-trial discovery in the case, the judge ordered all the defendants to turn over their electronic devices and social media accounts for forensic imaging by Friday, March 8.

In the meantime, Schoep and Stern have been bashing each other in the press, with Stern claiming he “outwitted” the ex-NSM leader and Schoep insisting he’d been hoodwinked.

The lifelong neo-Nazi told TPM that Stern was “pure evil” for misleading him about his intentions for the case and the future of the group.

“He knew that I was stepping away from the movement,” Schoep said of his “retirement.” “Instead of facilitating or trying to help with that, he manipulated and deceived me, like he said. And then tried to manipulate a court case in order to destroy an organization that I was in the process of leaving behind.”

Schoep said he planned to surface details of Stern’s eccentric background, which includes a

history of filing seemingly frivolous lawsuits and at least one other prison stint. As the Jackson Free Press once reported, Stern, who also goes by the name Akeem Reinsfield, once filed a \$61 million lawsuit against Revs. Jesse Jackson and Al Sharpton for criticizing the movie “Barbershop”; sued the California Department of Corrections for failing to use sterilized hair-cutting instruments; and sued a Mississippi county clerk for allegedly committing perjury in his criminal case.

Stern said Schoep was just “upset” that he’d singlehandedly destroyed the organization that he’d led for decades.

“It’s my job to dismantle this group,” Stern said of the NSM.

“It’s like lightning strikes again,” Stern added, nodding at his relationship with the former KKK grand wizard. “It’s happened to me before.”

*This post has been updated.*



***Allegra Kirkland*** (@allegrakirkland) Allegra Kirkland is a New York-based reporter for Talking

Points Memo. She previously worked on The Nation's web team and as the associate managing editor for AlterNet. Follow her on Twitter @allegrakirkland.

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